

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

In re	§	
	§	
PASO DEL NORTE MATERIALS, LLC,	§	Case No. 23-30252-HCM-11
	§	
Debtor.	§	

MOTION FOR EXTENSION OF EXCLUSIVITY PERIOD

TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY JUDGE:

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within twenty-one (21) days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely response is necessary for a hearing to be held.

Now comes the Debtor-in-Possession PASO DEL NORTE MATERIALS, LLC. (hereinafter "PDNM") and through its attorney undersigned files this Motion for Extension of Exclusivity Period, and for cause would respectfully show as follows:

1.

Petition date in this case is March 15, 2023. Jurisdiction arises under 28 U.S.C. § 1334(a), (b), and (e). This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (K), (L), (N), and (O).

2.

The Debtor-in-Possession has the exclusive right to file a Plan of Reorganization ("Plan"), through July 13th, the 120th day of this case. For the reasons shown below PDNM is not ready to file a Plan.

3.

The Debtor has an affiliate, J.A.R. CONCRETE, INC. ("J.A.R."). J.A.R.'s business activity is construction of roads and highways for governmental obligees. The projects are all bounded by a single Surety, UNITED STATES FIRE INSURANCE COMPANY ("the Surety"). PASO DEL NORTE MATERIALS, LLC is the principal supplier of labor and materials to J.A.R. J.A.R. has been in disputes with the Surety ever since petition date, over job costs, degrees of job completion, use of cash collateral, and related controversies over operating. This struggle did not leave much additional time for either Debtor to develop a reorganization strategy, because it appeared that the Surety was intent upon recovering all that it could, for itself, from both Debtors.

4.

On July 7, 2023, J.A.R. and the Surety struck an accord for J.A.R. operations to go forward with funding controlled by the Surety. That accord should lead to better productivity for both Debtors.

5.

PDNM has its own good prospects for reorganization, but these are likely to take another 30 to 60 days to come to fruition:

- a) It appears PDNM will be successful in its adversary proceeding to recover approximately \$1 million in assets from LORENZO FERNANDEZ FAMILY TRUST. The recovery should be free of pre-petition liens under 11 U.S.C. § 551.
- b) PDNM, like J.A.R., has surplus heavy equipment which it can sell, and has been arranging a series of sale transactions to reduce debts to manageable levels.
- c) PDNM has been building up a good deal of non-bonded work in the private sector. It had no private work--other than supplying J.A.R.--as of petition date.
- d) PDNM may be the only one of the two affiliates able to survive, if J.A.R.'s dispute with the CAMINO REAL REGIONAL MOBILITY AUTHORITY results in a finding that its termination from the Pellicano Widening Project was for

cause instead of for convenience. Such an outcome would make it problematic for J.A.R. to obtain the necessary future bonding necessary to bid on government contracts.

- e) There is overlapping debt—about 35%--between J.A.R. and PDNM. The two companies are interdependent. J.A.R. is currently PDNM's largest (40% of sales) customer.
- f) Although PDNM is an indemnitor in relation to the Surety, it is not dominated by its obligations to the Surety to the same extent that J.A.R. is.

WHEREFORE, PREMISES CONSIDERED, PDNM prays for an extension of its exclusivity period for another 60 days.

Respectfully submitted this 12th day of July, 2023.




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Attorney for Debtor-in-Possession

CERTIFICATE OF SERVICE

I do hereby certify that on this 12th day of July, 2023, I did cause a copy of the foregoing Motion for Extension of Exclusivity Period to be mailed to U.S. Trustee, 615 E. Houston St., Ste. 533, San Antonio, TX 78205-1539; to Erin Coughlin, Trial Attorney, Office of the United States Trustee, 615 E. Houston St., Suite 533, San Antonio, TX 78205; to Paso Del Norte Materials, LLC, 8000 Escobar, El Paso, TX 79907; to Wells Fargo Equipment Finance, Inc., c/o James W. Brewer, P.O. Box 2800, El Paso, TX 79999-2800; to 4Rivers Equipment, LLC, c/o Clyde A. Pine, Jr., P.O. Box Drawer 1977, El Paso, TX 79950-1977; to Texas Comptroller of Public Accounts, c/o Callan C. Searcy, P.O. Box, 12548, Austin, TX 78711-2548; to United States Fire Insurance Company, c/o Gregory M. Weinstein, 8350 Central Expressway, Suite 1550, Dallas Texas 75206; to Sumitomo Mitsui Finance and Leasing Co., Ltd., c/o Matthew F. Kye, Esq., 201 Old Country Road, Ste. 120, Melville, NY 11747; to City of El Paso, c/o Don Stecker, 112 E. Pecan Street, Suite 2200, San Antonio, TX 78205; to Christopher V. Arisco, 420 Throckmorton Street, Suite 1210, Fort Worth, Texas 76102; to 1st Source Bank, c/o Jarom J. Yates, 2323 Victory Avenue, Suite 700, Dallas, TX 75219; to Prana Machinery, Inc., c/o Aldo R. Lopez 5822 Cromo Dr., El Paso, TX 79912; to C&R Distributing, LLC, c/o Michael J. Shane, 4695 N. Mesa Street, Suite 100, El Paso Texas 79912; to Clowe & Cowan of El Paso, LLC, c/o Michael J. Shane, 4695 N. Mesa Street, Suite 100, El Paso Texas 79912; to Joshua Ortega d/b/a Sunset Sand & Gravel, c/o James M. Feuille, One San Jacinto Plaza, 201 E. Main Dr., suite 1100, El Paso, Texas 79901; to Sumitomo Mitsui Finance and Leasing Company, Ltd., c/o James W. King, 6420 Wellington Place, Beaumont, TX 77706; to Internal Revenue Service, c/o Steven Bass, 903 San Jacinto Blvd., Suite 334, Austin, TX 78701; and to the 20 Largest Unsecured Creditors as shown on the attached list.

/s/ 
E.P. BUD KIRK

4988.001-I.C-071023

20 Largest Unsecured Creditors

American Express
Customer Care & Billing
P.O. Box 981535
El Paso TX 79998

BioDyna
P.O. Box 955967
Saint Louis, MO 63195-5967

Border International Truck-EP
12283 Rojas
El Paso TX 79936

Brewer Oil Co.
1025 Wall St.
El Paso, TX 79915

C&R Distributing, LLC
140 S. Prado
El Paso, TX 79907

Century Rentals
955 Loma Verde Rd.
El Paso TX 79936

Dump Truck & Loader Service, Inc.
1645 Bessemer
El Paso, TX 79936

Environmental & Safety Solutions
6044 Gateway Blvd., E, Ste. 303
El Paso, TX 79905

Fuels, LLC
P.O. Box 150990
Ogden, UT 84415

Long Horn Electrical Services, Inc.
2227 Texas Ave.
El Paso TX 7990

Office of the Attorney General
Environmental Protection Division
P.O. Box 12548 MC-066
Austin TX 78711-2548

Prana Machinery
11640 Gateway East Blvd.
El Paso TX 79927

Purvis Industries
P.O. Box 540757
Dallas TX 75354

Reliable Asphalt Products
P.O. Box 519
Shelbyville KY 40066

Sapphire Gas Solutions, LLC
Lockbox/P.O. Box 679262
Dallas TX 75267-9262

Terracon
6460 Hiller St., Ste. A
El Paso TX 79925

Wagner Equipment Co.
P.O. Box 919000
Denver CO 80291-9000

Western Explosives Systems Co.
6875 South 900 East
Midvale UT 84047